



BILLING CODE: 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-814]

### **Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China: Preliminary Affirmative Determination of Circumvention of the Antidumping Duty Order**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce

**SUMMARY:** The Department of Commerce (Commerce) preliminarily determines that carbon steel butt-weld pipe fittings (butt-weld pipe fittings) exported from Malaysia, which were completed in Malaysia using finished or unfinished butt-weld pipe fittings sourced from the People's Republic of China (China), are circumventing the antidumping duty (AD) order on butt-weld pipe fittings from China.

**DATES:** Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**FOR FURTHER INFORMATION CONTACT:** Jerry Huang or Susan Pulongbarit, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4047- or (202) 482-4031, respectively.

### **SUPPLEMENTARY INFORMATION:**

#### Background

On July 6, 1992, Commerce issued the AD order on imports of butt-weld pipe fittings from China.<sup>1</sup> Additionally, on March 31, 1994, Commerce issued an affirmative final anti-

---

<sup>1</sup> See *Antidumping Duty Order and Amendment to the Final Determination of Sales at Less Than Fair Value*;

circumvention determination finding that imports into the United States of pipe fittings that were finished in Thailand from unfinished pipe fittings produced in China constituted circumvention of the *Order* within the meaning of section 781(b) of the Tariff Act of 1930, as amended (the Act).<sup>2</sup> Commerce applied this finding of circumvention to all imports of butt-weld pipe fittings from Thailand, regardless of manufacturer/producer, unless accompanied by a certification stating that such pipe fittings have not been produced from unfinished pipe fittings sourced from China.<sup>3</sup>

On May 22, 2017, Tube Forgings of America, Inc., Mills Iron Works, Inc., and Hackney Ladish, Inc., (collectively, the domestic parties), alleged that imports of butt-weld pipe fittings which were completed in Malaysia using finished or unfinished butt-weld pipe fittings sourced from China are circumventing the *Order*.<sup>4</sup> In their allegation, the domestic parties requested that Commerce initiate an anti-circumvention inquiry pursuant to section 781(b) of the Act, and 19 CFR 351.225(h), to determine whether imports of butt-weld pipe fittings sourced from unfinished or finished butt-weld pipe fittings from the PRC have undergone minor finishing processes, or were simply marked with “Malaysia” as the country of origin, in Malaysia, before export to the United States constitutes circumvention of the *Order*. The domestic parties also requested that Commerce reach an affirmative determination of circumvention for all imports of butt-weld pipe fittings from Malaysia, regardless of producer or exporter.

---

*Certain Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China*, 57 FR 29702 (July 6, 1992) (*Order*).

<sup>2</sup> See *Certain Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China; Affirmative Final Determination of Circumvention of Antidumping Duty Order*, 59 FR 15155 (March 31, 1994).

<sup>3</sup> *Id.*, at 15158-59.

<sup>4</sup> See Letter from the domestic parties to the Secretary of Commerce, “Carbon Steel Butt-Weld Pipe Fittings from the People’s Republic of China, A-570-814; Request for Circumvention Ruling Pursuant to Section 781(b) of the Tariff Act of 1930,” dated May 22, 2017.

On August 25, 2017, Commerce published in the *Federal Register* the notice of initiation of this anti-circumvention inquiry.<sup>5</sup> For a complete description of the events that followed the initiation of this inquiry, *see* the Preliminary Decision Memorandum.<sup>6</sup> A list of topics included in the Preliminary Decision Memorandum is included as Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

#### Scope of the Order

The products covered by the *Order* are carbon steel butt-weld pipe fittings. For a complete description of the scope of the *Order*, *see* the Preliminary Decision Memorandum.<sup>7</sup>

#### Scope of the Anti-Circumvention Inquiry

This anti-circumvention inquiry covers butt-weld pipe fittings exported from Malaysia to the United States, which were completed in Malaysia using finished or unfinished butt-weld pipe fittings sourced from China (inquiry merchandise). This preliminary ruling applies to all shipments of inquiry merchandise on or after the date of the initiation of this inquiry.

#### Methodology

---

<sup>5</sup> *See Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China: Initiation of Anti-Circumvention Inquiry on the Antidumping Duty Order*, 82 FR 40556 (August 25, 2017).

<sup>6</sup> *See* Memorandum, "Preliminary Decision Memorandum for the Anti-Circumvention Inquiry on the Antidumping Duty Order on Certain Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

<sup>7</sup> *Id.*

Commerce is conducting this anti-circumvention inquiry in accordance with section 781(b) of the Act. For a full description of the methodology underlying Commerce's preliminary determination, *see* the Preliminary Decision Memorandum.

#### Preliminary Finding

As detailed in the Preliminary Decision Memorandum, we preliminarily determine that butt-weld pipe fittings exported from Malaysia, which were completed in Malaysia using finished or unfinished butt-weld pipe fittings from China, or were simply marked with "Malaysia" as the country of origin are circumventing the *Order*. As such, we preliminarily determine that it is appropriate to include this merchandise within the *Order* and to instruct U.S. Customs and Border Protection (CBP) to suspend any entries of butt-weld pipe fittings from Malaysia, which were completed in Malaysia using finished or unfinished butt-weld pipe fittings from China, or were simply marked with "Malaysia" as the country of origin. We also preliminarily determine that Arah Dagang Sdn. Bhd. (Arah Dagang), Solidbend Fittings & Flanges Sdn. Bhd. (Solidbend), and Sumitomo Corporation Asia & Oceania Pte. Ltd. (Sumitomo) have not exported butt-weld pipe fittings which were completed in Malaysia using finished or unfinished butt-weld pipe fittings from China.

#### Suspension of Liquidation

In accordance with 19 CFR 351.225(l)(2), Commerce will direct CBP to suspend liquidation and to require a cash deposit of estimated duties on unliquidated entries of butt-weld pipe fittings completed or simply marked in Malaysia from Chinese-origin finished or unfinished butt-weld pipe fittings that were entered, or withdrawn from warehouse, for consumption on or after August 21, 2017, the date of initiation of the anti-circumvention inquiry.

The suspension of liquidation instructions will remain in effect until further notice. Commerce will instruct CBP to require AD cash deposits equal to the China-wide rate of 182.90 percent, unless the importer/exporter can certify to CBP that the Chinese-origin finished or unfinished butt-weld pipe fittings completed in Malaysia were supplied by a Chinese manufacturer with a company-specific separate rate. In that instance, the cash deposit rate will be the rate of the Chinese butt-weld pipe fittings manufacturer that has its own rate.<sup>8</sup>

Butt-weld pipe fittings completed in Malaysia from finished and unfinished butt-weld pipe fittings that are not of Chinese-origin are not subject to this inquiry. Therefore, cash deposits are not required for such merchandise, subject to the following certification requirements.<sup>9</sup> An importer of butt-weld pipe fittings from Malaysia claiming that its butt-weld pipe fittings were not completed from finished and unfinished Chinese butt-weld pipe fittings must meet the certification and documentation requirements described in Appendix II. Appendix II requires the importer to prepare and retain certifications and documents not only on its own behalf, but also get a certification from the exporter of this merchandise. Specifically, importers of such butt-weld pipe fittings must prepare and maintain an Importer Certification (*see* Appendix III) as well as documentation supporting the Importer Certification. Besides the Importer Certification, the importer must also maintain a copy of the appropriate Exporter Certification (*see* Appendix IV) and relevant supporting documentation from its exporter of butt-weld pipe fittings that were not completed using Chinese-origin finished and unfinished butt-

---

<sup>8</sup> *See, e.g., Glycine from the People's Republic of China: Preliminary Partial Affirmative Determination of Circumvention of the Antidumping Duty Order and Initiation of Scope Inquiry*, 77 FR 21532, 21535 (April 10, 2012), unchanged in *Glycine from the People's Republic of China: Final Partial Affirmative Determination of Circumvention of the Antidumping Duty Order*, 77 FR 73426 (December 10, 2012).

<sup>9</sup> In light of our preliminary determination that Arah Dagang, Solidbend, and Sumitomo have not exported butt-weld pipe fittings which were completed or marked in Malaysia using finished or unfinished butt-weld pipe fittings from China, we will not instruct CBP to suspend liquidation of any unliquidated entries of non-Chinese origin butt-weld pipe fittings, subject to their meeting the certification requirements.

weld pipe fittings. Importers must ensure that their exporters of butt-weld pipe fittings completed from finished and unfinished butt-weld pipe fittings of non-Chinese origin must prepare and maintain an Exporter Certification and documentation supporting the Exporter Certification (*see* Appendix IV).

#### Verification

As provided in 19 CFR 351.307, Commerce intends to verify information relied upon in making its final determination.

#### Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last final verification report is issued in this anti-circumvention inquiry, unless the Secretary alters the time limit. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.<sup>10</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this anti-circumvention inquiry are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold

---

<sup>10</sup> See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC, 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

#### International Trade Commission Notification

Commerce, consistent with section 781(e) of the Act, has notified the International Trade Commission (ITC) of this preliminary determination to include the merchandise subject to this anti-circumvention inquiry within the *Order*. Pursuant to section 781(e) of the Act, the ITC may request consultations concerning Commerce's proposed inclusion of the inquiry merchandise. If, after consultations, the ITC believes that a significant injury issue is presented by the proposed inclusion, it will have 60 days from the date of notification by Commerce to provide written advice.

#### Notification to Interested Parties

This determination is issued and published in accordance with section 781(b) of the Act and 19 CFR 351.225(f).

Dated: July 18, 2018.

**Gary Taverman,**

*Deputy Assistant Secretary*

*for Antidumping and Countervailing Duty Operations,*

*performing the non-exclusive functions and duties of the*

*Assistant Secretary for Enforcement and Compliance.*

## **Appendix I**

### **List of Topics Discussed in the Preliminary Decision Memorandum**

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Scope of the Anti-Circumvention Inquiry
- V. Period of Inquiry
- VI. Statutory Framework
- VII. Use of Facts Available with an Adverse Inference
- VIII. Anti-circumvention Determination
- IX. Country-Wide Determination
- X. Certification for Not Using Chinese-Origin Butt-Weld Pipe Fittings
- XI. Recommendation



## **APPENDIX II**

### **Certification Requirements**

If an importer imports carbon steel butt-weld pipe fittings (butt-weld pipe fittings) from Malaysia and claims that the butt-weld pipe fittings were completed in Malaysia using finished or unfinished butt-weld pipe fittings manufactured of non-Chinese origin, the importer is required to complete and maintain the importer certification, attached as Appendix III. The importer is further required to maintain a copy of the exporter certification, discussed below and attached as Appendix IV. The importer certification must be completed, signed, and dated by the time of filing of the entry summary for the relevant importation. Where the importer uses a broker to facilitate the entry process, it should obtain the entry number from the broker. Agents of the importer, such as brokers, however, are not permitted to make this certification on behalf of the importer.

The exporter is required to complete and maintain the exporter certification, attached as Appendix IV, and is further required to provide the importer a copy of that certification and all supporting documentation. The exporter certification must be completed, signed, and dated by the time of shipment of the relevant entries. The exporter certification should be completed by the party selling the merchandise manufactured in Malaysia to the United States, which is not necessarily the producer of the product.

The importer will not be required to submit the certifications or supporting documentation to CBP as part of the entry process. However, the importer and the exporter will be required to present the certifications and supporting documentation, to Commerce and/or U.S. Customs and Border Protection (CBP), as applicable, upon request by the respective agency. Additionally, the claims made in the certifications and any supporting documentation are subject

to verification by Commerce and/or CBP. The importer and exporter are required to maintain the certifications and supporting documentation for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries. If it is determined that the certification and/or documentation requirements in a certification have not been met, Commerce intends to instruct CBP to suspend, under the antidumping duty (AD) order on butt-weld pipe fittings from the People's Republic of China, A-570-814, all unliquidated entries for which these requirements were not met and require the importer to post applicable AD cash deposits equal to the rates as determined by Commerce. Entries suspended under A-570-814 will be liquidated pursuant to applicable administrative reviews of the China AD order or through the automatic liquidation process.

For butt-weld pipe fittings completed in Malaysia from finished or unfinished butt-weld pipe fittings manufactured in China, Commerce has established the following third-country case number in the Automated Commercial Environment (ACE): A-557-994.

For entries suspended pursuant to the preliminary determination of this anti-circumvention inquiry that were shipped and/or entered, or withdrawn from warehouse, for consumption during the period, August 21, 2017 (the date of initiation of this anti-circumvention inquiry) through the date of publication of the preliminary determination in the *Federal Register*, for which certifications are required, the importer and exporter certifications should be completed within 45 days of publication of the preliminary determination in the *Federal Register*. Accordingly, the relevant bullet in the certification should be edited to reflect that the certification was completed within this time frame. For example, the bullet in the importer certification that reads: "This certification was completed by the time of filing the entry summary," could be edited as follows: "The shipments/products referenced herein entered before

the mm/dd/yyyy publication of the *Preliminary Determination Federal Register* notice. This certification was completed on mm/dd/yyyy, within 45 days of the *Federal Register* notice publication.” Similarly, the bullet in the exporter certification that reads, “This certification was completed by the time of shipment,” could be edited as follows: “The shipments/products referenced herein shipped before the mm/dd/yyyy publication of the *Preliminary Determination Federal Register* notice. This certification was completed on mm/dd/yyyy, within 45 days of the *Federal Register* notice publication.” For such entries, importers and exporters each have the option to complete a blanket certification covering multiple entries, individual certifications for each entry, or a combination thereof. The importer certifications, and copies of the exporter certifications, should be maintained by the importer and provided to CBP or Commerce only upon request by the respective agency. The exporter must provide the importer a copy of the exporter certification within 45 days of the publication of the preliminary determination in the *Federal Register*.

For unliquidated entries (and entries for which liquidation has not become final) of merchandise entered as type 01 entries that were shipped and/or entered, or withdrawn from warehouse, for consumption during the period, August 21, 2017 (the date of initiation of this anti-circumvention inquiry) through the date of publication of the preliminary determination in the *Federal Register*, for which certifications are required, importers should file a Post Summary Correction with CBP, in accordance with CBP’s regulations, regarding conversion of such entries from type 01 to type 03 entries and report those type 03 entries using the third-country case number, A-557-994. Similarly, the importer should pay cash deposits on those entries consistent with the regulations governing post summary corrections that require payment of additional duties.

## APPENDIX III

### IMPORTER CERTIFICATION

I hereby certify that:

- My name is {COMPANY OFFICIAL'S NAME} and I am an official of {IMPORTING COMPANY};
- I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of the carbon steel butt-weld pipe fittings completed in Malaysia that entered under entry number(s) {INSERT ENTRY NUMBER(S)} and are covered by this certification. "Direct personal knowledge" refers to facts the certifying party is expected to have in its own records. For example, the importer should have "direct personal knowledge" of the importation of the product (*e.g.*, the name of the exporter) in its records;
- I have personal knowledge of the facts regarding the production of the imported products covered by this certification. "Personal knowledge" includes facts obtained from another party, (*e.g.*, correspondence received by the importer (or exporter) from the producer regarding the source of the substrate used to produce the imported products);
- The carbon steel butt-weld pipe fittings completed in Malaysia do not contain finished or unfinished butt-weld pipe fittings manufactured in the People's Republic of China;
- I understand that {IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.*, documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, productions records, invoices, etc.) for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;
- I understand that {IMPORTING COMPANY} is required to provide this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce);
- I understand that {IMPORTING COMPANY} is required to maintain a copy of the exporter's certification, (attesting to the production and/or export of the imported merchandise identified above), for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries;
- I understand that {IMPORTING COMPANY} is required to maintain and provide a copy of the exporter's certification and supporting records, upon request, to CBP and/or Commerce;

- I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;
- I understand that failure to maintain the required certification and/or failure to substantiate the claims made herein will result in:
  - suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met; and
  - the requirement that the importer post applicable antidumping duty (AD) and/or countervailing duty (CVD) cash deposits (as appropriate) equal to the rates determined by Commerce;
- I understand that agents of the importer, such as brokers, are not permitted to make this certification;
- This certification was completed by the time of filing the entry summary; and
- I am aware that U.S. law (including, but not limited to, 18 U.S.C. §1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature \_\_\_\_\_  
 NAME OF COMPANY OFFICIAL

\_\_\_\_\_  
 TITLE

\_\_\_\_\_

## APPENDIX IV

### EXPORTER CERTIFICATION

I hereby certify that:

- My name is {COMPANY OFFICIAL’S NAME HERE} and I am an official of {NAME OF EXPORTING COMPANY};
- I have direct personal knowledge of the facts regarding the production and exportation of the carbon steel butt-weld pipe fittings identified below. “Direct personal knowledge” refers to facts the certifying party is expected to have in its own books and records. For example, an exporter should have “direct personal knowledge” of the producer’s identity and location;
- These carbon steel butt-weld pipe fittings completed in Malaysia do not contain finished or unfinished butt-weld pipe fittings manufactured in the People’s Republic of China;
- I understand that {NAME OF EXPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.*, documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, productions records, invoices, etc.) for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;
- I understand that {NAME OF EXPORTING COMPANY} must provide this Exporter Certification to the U.S. importer by the time of shipment. The shipments/products referenced herein shipped before the mm/dd/yyyy publication of the *Preliminary Determination Federal Register* notice. This certification was completed on DD/MM/YY, within 45 days of the *Federal Register* notice publication;
- I understand that {NAME OF EXPORTING COMPANY} is required to provide a copy of this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce);
- I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;
- I understand that failure to maintain the required certification and/or failure to substantiate the claims made herein will result in:
  - suspension of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met; and

- the requirement that the importer post applicable antidumping duty (AD) and/or countervailing duty (CVD) cash deposits (as appropriate) equal to the rates as determined by Commerce;
- This certification was completed at or prior to the time of shipment; and
- I am aware that U.S. law (including, but not limited to, 18 U.S.C. §1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature  
NAME OF COMPANY OFFICIAL

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE  
[FR Doc. 2018-15882 Filed: 7/24/2018 8:45 am; Publication Date: 7/25/2018]